

BARGAINING POWER AS A MEANS TO ACHIEVE FAIR RETURNS TO FARMERS^{1/}

By
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First, I would like to say that it's nice to be back in Michigan, the original home of George Washington. I notice several dumbfounded looks. Let me explain. As the story goes, George was born in rural Michigan and one day chopped down the proverbial cherry tree. When questioned by his father, young George said, "I cannot tell a lie, it was I." The senior Washington responded, in that case young George would never make it in Michigan politics. So he moved off to Virginia and became a success.

The Current Farm Problem

Recently, interest in agricultural policy has reached flood tide. Farmers are caught in an income pinch, the magnitude of which is unprecedented since the depression years. We know only too well that prices for farm-produced commodities have dropped sharply in the last two years, while the cost of production inputs has risen dramatically. Of course, some of the increases in production costs reflect highly inflated land values. Clearly, some farmers paid too much for land, and unless they have a large base of lower cost land over which to spread costs, are definitely feeling a cash flow bind. Furthermore,

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weather-related crop losses have hit some farmers much harder than others.

Nonetheless, the fact remains that we have a serious income problem in American agriculture. Realized net farm income in 1977, when adjusted for the impact of inflation, was the lowest since the depression years. Also in 1977, for the first time ever, the farmers' share of the consumer's food dollar was less than the share going to labor in the marketing system. Farmers' concern for their current economic plight has been clearly evidenced in the American Agricultural Movement, the call for a farm strike, and the parade of farmers and tractors around State capitals and down Pennsylvania Avenue.

The question I want to discuss with you today is, what is the potential role for collective bargaining by farmers to deal with depressed current farm incomes. How do the results of collective bargaining compare with those which can be achieved through strikes and farmers' holidays? And, what is the political climate for broadening the legal foundation for collective bargaining by American farmers?

Benefits to Collective Bargaining

First, let's look at the track record of collective bargaining, and examine what has been its impact on farm income. You in Michigan have been on the forefront of the farmer bargaining effort. Your Agricultural Marketing and Bargaining Act has established a new legal frontier for collective action. Two sets of observations, I believe, speak to the effectiveness of this approach in your State. First, the fact that an increasing number of farmers have worked to establish

accredited bargaining associations suggests that farmers clearly perceive the real benefits to be gained from this marketing approach. Second, the aggressive resistance of numerous handlers and processors to both the law and to its implementation and administration stands as convincing testimony that buyers of agricultural products perceive more than a modicum of income shift to farmers as a result of organized bargaining.

Furthermore, an expanding body of empirical evidence points to appreciable income advantages as a result of collective bargaining. Just a couple of examples: John Havens, President of the Freemont, Ohio Tomato Growers has reported more than a \$3 per ton gain in grower prices in 1977 directly attributable to the activities of that voluntary bargaining association. A carefully designed study of the bargaining activities by a voluntary association of northeastern Ohio grape growers revealed a positive net price impact of about 15 percent, over several years, directly attributable to the bargaining effort. And, of course, the success of many dairy cooperatives in negotiating over order premiums has become an example of bargaining gains familiar to almost everyone.

Additionally, several studies have shown that price fluctuations have been reduced significantly through collective bargaining efforts. Less price fluctuation results in reduced uncertainty for farmers, which allows more effective long-term planning, thus more efficient use of resources. This, in turn, has a positive long-term impact on farm income. And, these gains have been achieved with voluntary associations. Certainly the potential is considerable, to achieve even more impressive gains where the bargaining effort can be made uniform

across a market, as under the Michigan law.

I do not mean to imply that collective bargaining is the only marketing tool which farmers need to deal effectively with untoward economic events. There are several real economic limits, such as product substitution, production responses to higher prices, and buyer resistance, to the gains achievable with this technique. But, the evidence does point out that collective bargaining can be, in some situations, one effective tool for positively impacting upon farm income.

The Impact of Farm Strikes

How does collective bargaining compare with withholding actions as a marketing tool? Farm strikes have a colorful history in the U.S. Starting with the burning of cotton in 1904 by Texas farmers and the burning of gins by the "Night Riders" four years later, through the Farmers' Holiday in 1932 to the NFO holding actions of the 1960's and the mass calf slaughterings of the 1970's, farmers' strikes have had little perceptible impact on farm prices.

The combination of perishability and annual production render many agricultural commodities unsuitable for withholding actions. It's hard to convince a farmer that he should withhold his products from the market when those products represent a year's work and a lifetime investment, and when they will spoil if not quickly processed. Thus, withholding actions are fine to talk about when no one is harvesting perishable products which have to be marketed or lost, but they cannot be very effective as an actual marketing tool.

The strike, however, has played an important political role in the history of American agriculture by focusing public attention on a

farm problem and thus helping to generate political relief. Perhaps, this was best dramatized when the national farm strike set for May 13, 1933, was cancelled when the Agricultural Adjustment Act was signed the day before. Likewise, the current strike action of the American Agricultural Movement is gaining considerable political attention. Many Congressional hearings have been held as a result, and numerous meetings have taken place between farmers, Congressmen and Department of Agriculture officials.

Of course, whether anyone will do anything as a result, remains to be seen. It's like the Department of Agriculture official who went to college. He couldn't decide whether to study farming or agriculture. But he was smart enough to ask the difference. When it was explained that farming was "doing it," he chose agriculture.

The Policy Issues

To date, quite frankly, collective bargaining has not entered squarely into the farm policy debate. Yet, as we well know, if collective bargaining is going to be an effective long-term marketing alternative for farmers, it must be supported as a matter of public policy. This means a national agricultural bargaining law.

The nearest thing we now have to national legislation is the Agricultural Fair Practices Act of 1967. That law prohibits discrimination by handlers against farmers because of membership in an association. However, it has been largely ineffective in facilitating collective bargaining. Just 20 complaints have been filed under that Act in its 10 years of existence. Of these, only four have reached litigation,

and collective bargaining has actually been stymied by the results of those litigations. Court decisions have held that, while a producer cannot be unfairly treated because he is a member of an association, the handler has no obligation under the law to recognize an association as the producer's agent. There is no such legal obligation even where the producer has joined for the expressed purpose of having the association deal on his behalf with the handler.

By refusing to deal with producers' associations, handlers can very easily render them ineffective, thus maintaining a market power imbalance which favors the buyer. Recognition by the handler of a bargaining association as the exclusive sales agent of producers is the most essential condition to effective collective bargaining. Without some compulsion for handlers to recognize duly constituted associations as the exclusive agents of their members, bargaining collectively with farmers is often little more than a public relations ploy. Without such compulsion nationwide, the potential is also limited. Under State law, it is limited by geographic boundaries, while the potential for success in States without facilitating legislation is clearly circumscribed.

There is, however, considerable controversy over what should be the provisions of any Federal Act. Let me highlight the most salient of these, for we need the benefit of your ideas and experience in formulating the most effective bargaining policy.

First, what commodities should be covered? Perhaps, not all of agriculture lends itself to collective bargaining. It seems to work best for those products which farmers produce or sell under contract, such as milk, fruits and vegetables. This, because the terms of such

contracts, including prices or pricing provisions, are usually negotiated infrequently--once a year or so--rather than at each sale. It's more difficult to collectively negotiate prices for something like livestock, for example, where the terms of sale are negotiated each time an individual farmer makes a sale. It could be done, but it certainly is more complex.

But, does this mean that facilitating legislation should be limited to specified commodities? One problem with limiting coverage to, say fruits and vegetables, is defining what that includes. Would such coverage include tree crops? What about nuts? Or peanuts? How about sugar crops? Or possibly even soybeans or high-lysine corn? Alternatively, if no commodity specification is included, the burden is shifted directly to farmers to determine for which commodities they can effectively use this as a marketing alternative.

Another issue is the status of processing cooperatives as handlers. Many processing cooperatives operate much like proprietary handlers, and are concerned primarily with maximizing product throughputs and maintaining resale markets. Exempting these cooperatives could give them a substantial competitive advantage vis-a-vis other processors. Yet, it seems almost nonsensical to have farmers bargaining with themselves.

A third set of questions deal with what producers are included in the bargaining effort. Should an association, once certified, represent everyone shipping to a given handler, or only its members? Related to this is the highly controversial question, what share of the market should be represented by the association in order to gain certification? The "free rider" problem argues for inclusive representation. And certainly if the certified association becomes

the exclusive representative of all producers in a market, as is provided for in your Michigan law, a majority membership rule seems appropriate.

Personally, however, I believe that a degree of competition between bargaining associations is not necessarily a bad thing. By requiring something on the order of 25 to 40 percent market representation for certification, I believe we can assure that most certified associations have an effective base for bargaining without precluding two or more associations from competing in the same market. We very much need your input on this very crucial question.

The fourth question is, what kind of settlement procedure should be provided for in bargaining legislation? Note that I did not raise the question, should a settlement procedure be included, but rather what kind of procedure. It is not realistic to assume that collective bargaining in agriculture will have widespread success without some mandatory settlement or arbitration procedure. In labor bargaining, the job action, that is, strikes and lockouts, provides the incentive for both sides to reach agreement. However, there is a big difference between withholding one's labor services and refusing to plant a crop. With labor, production is lost just a day at a time. In much of agriculture, it's lost a year at a time. The potential losses to parties on both sides of the bargaining effort of a "crop action" are simply too great to make this an effective tool for either side to use to force a settlement. Thus, it seems absolutely essential that agricultural bargaining legislation provide for a settlement mechanism that can be invoked when an impasse is reached across the bargaining table. It is necessary to prevent catastrophic losses on both sides, and to encourage genuine

efforts on both sides to reach agreement. The difficult question is, what should that settlement procedure be?

Finally, let me turn my attention to what I perceive to be the climate in Washington for Federal legislation. Collective bargaining has not received much attention by the current Administration of the Department of Agriculture in its policy debate. Yet, there are some signs which suggest that the Department will support a well-conceived and operationally feasible legislative initiative. For one, the current activities of the American Agricultural Movement have resulted in greater interest by policymakers in any policy initiative which would demonstrate active concern with the current farm situation. Also, the Administration has clearly endorsed the concept of cooperative marketing.

But, will a favorable attitude in the Department of Agriculture be sufficient? To answer that, it is insightful to examine the decision-making structure of the entire Executive Branch of the Federal Government. One of my earliest observations upon arriving in Washington last year was the domination of the Office of Management and Budget over the policies of the Department of Agriculture and other Federal agencies.

To understand why, it's instructive to look at the history of OMB. Management was added to the budget office under the Nixon-Ash plan to centralize decisionmaking in the Administration at the White House. OMB, along with a parcel of rules and regulations funnelling virtually all policy decisions to the Chief Executive through that agency, became the primary vehicle for implementing central control in Government. This was Nixon's mechanism for bringing about his "New Federalism "

Now, we have a Chief Executive who espouses decentralization, who apparently has no "New Federalism" or "Great Society" or "New Frontier" or "Fair Deal" or whatever. The rhetoric is, let decision-making rest with the Departments and agencies, with those persons most knowledgeable in a particular area. Yet, OMB, the central control agency, is still alive and thriving. Thus, we now have a control system with no one in control. OMB has the authority to coordinate administrative policy, but little policy direction has emerged from the White House. As a result, OMB has exercised their authority by subjecting each Department's policy proposals to review by just about any other agency who might even remotely be interested.

With food and agricultural issues being among the most popularly prominent, almost everyone gets into the act--with force. Not necessarily enough force to cause outright rejection of the proposed policy, but often enough to prevent implementation without modification. This has resulted in the involvement of numerous other agencies in the formulation of agricultural policy in general. Collective bargaining policy for farmers is no exception.

Four other agencies--the Federal Trade Commission, the Department of Justice, the Council of Economic Advisers and the Council on Wage and Price Stability--have become notable opponents to any Federal legislative initiative which would facilitate collective bargaining by farmers. Why? Let me simply highlight their objections. Listen carefully, because these are the most important points which must be convincingly refuted by the agricultural community if any effective national bargaining legislation is to see the light of day. First, they argue that there is no need for legislation which will enhance

farmers' market power, as they see no evidence that there is a present imbalance in bargaining power between farmers and handlers. They are quick to point to a few large cooperatives as evidence to the contrary. Further, they argue that, even if an imbalance exists, it is not clear that a redress would be in the public interest. They also argue that collective bargaining legislation would result in restrictions on buyers' choices in the marketplace, that it would encourage the development of monopoly cooperatives, and that it would result in higher food prices. All of these results, by implication, are socially undesirable.

Some of these arguments have merit, depending upon what kind of legislative initiative is put forward. For example, legislation that would establish one association as the exclusive agent for all producers in a defined market could certainly be viewed as facilitating monopoly power, at least in the defined market. And, higher farm prices could result in higher food prices, where handlers, processors, and retailers have enough market power to pass them along. But, armed with an objective and well-conceived legislative proposal, most of these criticisms will not stand up. We are genuinely interested in working with you to develop such a proposal.

Let me close by reporting the results of a recent survey to reveal the three most mistrusted statements in the United States. The first of these is, "My check is in the mail." Second, "Of course, I will respect you in the morning." And, third, "I'm from Washington and I'm here to help you." I hope that we've bridged that gap a bit today. Thank you.